

TC



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/560,012	04/27/2000	Timothy A. M. Chuter	ENDOV-51200	2752

24201 7590 02/05/2002

FULWIDER PATTON LEE & UTECHT, LLP  
HOWARD HUGHES CENTER  
6060 CENTER DRIVE  
TENTH FLOOR  
LOS ANGELES, CA 90045

EXAMINER

SNOW, BRUCE EDWARD

ART UNIT PAPER NUMBER

3738

DATE MAILED: 02/05/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/560,012

Applicant(s)

CHUTER, TIMOTHY A. M.

Examiner

Bruce E Snow

Art Unit

3738

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 31 December 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 26-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 26-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2, 5. 6) ☐ Other:

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election without traverse of Group II in Paper No. 4 is acknowledged.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 26 recites the limitation "the graft" in lines 6 and 7. There is insufficient antecedent basis for this limitation in the claim. It is unclear is applicant is referring to the "graft assembly" or the "first element".

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Claims 26-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Lazarus (5,693,088). Lazarus teaches a method and apparatus for repairing a body

Art Unit: 3738

lumen having a point of bifurcation wherein a first element 10 includes first and second legs 25 which extend from a bifurcation junction. The graft assembly is implanted such that the bifurcation junction is supported by the point bifurcation of the body lumen. See column 15, lines, 65-67.

Regarding claim 27, see element 16 or other elements.

Claims 26-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Lazarus (5,693,088). Lazarus teaches a method and apparatus for repairing a body lumen having a point of bifurcation wherein a first element includes first and second legs which extend from a bifurcation junction. The graft assembly is implanted such that the bifurcation junction is supported by the point bifurcation of the body lumen.

Claims 26-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Leonhardt et al (5,713,917). Leonhardt et al teaches a method and apparatus for repairing a body lumen having a point of bifurcation wherein a first element includes first and second legs which extend from a bifurcation junction. The graft assembly is implanted such that the bifurcation junction is supported by the point bifurcation of the body lumen.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3738

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 26-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pierce (6,152,956) in view of Lazarus (5,693,088). Pierce disclose a method and apparatus for repairing a body lumen having a bifurcation comprising a "first element" 44 having a "docking site" and second element including elements 40, 42 attached to said docking site. Said second element is fixed superior to the renal arteries. However, Pierce is silent regarding the first element including first and second legs. Lazarus teaches a first element including first and second legs to repair a body lumen with a bifurcation. It would have been obvious to one having ordinary skill in the art to have utilized the lower portion of Lazarus including the first and second legs with the first portion of Pierce to *"assure positioning and support of the vascular graft within the vessel and against the crotch of the bifurcation"*; see abstract of Lazarus.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bruce E Snow whose telephone number is (703) 308-3255. The examiner can normally be reached on Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on (703)308-2111. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3590 for regular communications and . for After Final communications.

Art Unit: 3738

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

bes  
January 30, 2002

A handwritten signature in black ink, appearing to be 'BS' followed by a long horizontal stroke.

**BRUCE SNOW  
PRIMARY EXAMINER**